IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 369/2007

(Rakesh V/s Priyanka and Anr.)

Date of Order : 19/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Ms. Anju Khinchi, for the petitioner.
Mr. Ashok Upadhyay, P.P.
Mr. R.S.Choudhary, for the respondent No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 17.02.2007 passed by the Judicial Magistrate, First Class, Bar, district Pali (for short 'the trial court' hereinafter) granting interim maintenance in favour of respondent Priyanka wife of the petitioner @ Rs. 1000/- per month.

From the order impugned, it appears that respondent Priyanka is the legally wedded wife of the petitioner. This fact has not been disputed by the petitioner before the trial court. The allegation against the petitioner is that he used to harass and subject the respondent wife to cruelty for bringing less dowry and on that account she has been turned out of her

matrimonial home. It has further been stated that the petitioner is running a shoe/ Chappal shop and also undertaking tuition by which he is earning Rs. 20,000/- per month and having sufficient means failed to maintain and neglected the respondent wife. A reply to the application was submitted by the petitioner before the trial court admitting therein that the respondent is his legally wedded wife and he is ready to keep her, however, at her own, the respondent is residing at her parents house. It was also stated that the respondent is undertaking the work of tailoring and tuition and is earning Rs.6000-7000 per month.

During the pendency of the main application under Section 125 Cr.P.C., an application seeking monthly allowance of interim maintenance was moved by the respondent. The trial court concluded that the petitioner is an educated person and working on the shoe shop and having income and he failed to maintain the respondent wife, therefore, granted monthly allowance of interim maintenance @ Rs. 1000/-.

Learned counsel for the petitioner submits that the petitioner does not have his own shop but is working on his father's shop. Be that as it may. The fact remains that the petitioner's father has a shop and the petitioner is working on that shop, as such the petitioner cannot be said to be a non-earning person. Even otherwise, it is the prime responsibility of the petitioner to maintain his wife.

In this view of the matter, I do not find any error or illegality in the order impugned warranting interference in extra-ordinary powers of this Court.

The petition is therefore, dismissed. However, the trial court is directed to decide the main application filed by the respondent under Section 125 Cr.P.C. utmost expeditiously preferably within four months from the date of production of certified copy of this order.

(H.R.PANWAR),J.

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